[Reported at 395 F.3d 238]

IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

THE GUARDIAN LIFE INSURANCE COMPANY OF AMERICA, Plaintiff

v.

KIMBERLYE FINCH, Defendant – Appellant

v.

EDDIE LEE GALAWAY, Administrator, on behalf of Estate of Bradford Wayne Galaway, Defendant - Appellee

No. 04-10212

December 22, 2004, Filed

Appeal from the United States District Court for the Northern District of Texas.

Before KING, Chief Judge, and HIGGINBOTHAM and DAVIS, Circuit Judges.

KING, Chief Judge:

The Guardian Life Insurance Company of America filed this interpleader action in order to determine who should receive the proceeds of a life insurance plan governed by ERISA. Eddie Lee Galaway, the administrator of the decedent's estate, claimed that the estate should receive the proceeds because Kimberlye Finch, the named beneficiary and the decedent's ex-wife, waived her rights to them when she and the decedent divorced. By order of the district court and with the consent of all parties, this case was transferred to a magistrate judge. Applying the federal common law of waiver, the magistrate judge agreed with Eddie Lee

Galaway, determining that Finch had waived her rights under the plan. Accordingly, the magistrate judge granted summary judgment in his favor. Finch now appeals this decision, citing *Egelhoff v. Egelhoff*, 532 U.S. 141, 149 L. Ed. 2d 264, 121 S. Ct. 1322 (2001), for the proposition that a federal district court must look to the text of ERISA itself, not to federal common law, when identifying the beneficiary of a plan governed by ERISA. For the following reasons, we AFFIRM the judgment of the district court.

I. FACTUAL AND PROCEDURAL BACKGROUND

Bradford Wayne Galaway ("Galaway") and Kimberlye Finch married on September 22, 2001. On February 1, 2002, the Guardian Life Insurance Company ("Guardian") had issued to Galaway's employer a group life insurance policy covering Galaway. Galaway named Finch as the beneficiary of this policy. All parties to this suit agree that this life insurance policy is an employee welfare benefits plan governed by § 3(21)(A) of Title I of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. §§ 1001-1461 (2000).

On June 20, 2002, Galaway and Finch divorced. As part of the divorce proceedings, they voluntarily entered into an Agreed Final Decree of Divorce that awarded Galaway all "right, title, interest, and claim in and to" his life insurance policies. The Agreed Final Decree of Divorce divested Finch of her interest in any such policies.

On November 8, 2002, Galaway died intestate in an airplane accident. At the time of his death, Galaway had not changed the named beneficiary of his life insurance policy.

After Galaway's death, both Eddie Lee Galaway, as administrator of Bradford Wayne Galaway's estate, and Finch claimed sole entitlement to the insurance proceeds. On May 30, 2003, Guardian filed an interpleader action in the United States District Court for the Northern District of

Texas, in which it asked the court to identify the proper beneficiary of the insurance proceeds.

In deciding the present case, the magistrate judge, citing Fifth Circuit precedent, applied federal common law to determine that Finch had waived her rights to the insurance proceeds. Accordingly, the magistrate judge granted summary judgment in favor of Eddie Lee Galaway and denied Finch's cross-motion for summary judgment. Finch now appeals this decision.

II. STANDARD OF REVIEW

This court reviews a district court's grant of summary judgment de novo. *Martinez v. Schlumberger, Ltd.*, 338 F.3d 407, 410-11 (5th Cir. 2003); *Clift v. Clift*, 210 F.3d 268, 269-70 (5th Cir. 2000). Summary judgment is appropriate when no genuine issue as to any material fact exists and the moving party is entitled to judgment as a matter of law. FED. R. CIV. P. 56(c).

III. ANALYSIS

On appeal, Finch argues that the magistrate judge erred when she relied on federal common law to identify the beneficiary of the life insurance plan. In support of this claim, Finch invites the court's attention to *Egelhoff*, 532 U.S. at 141, which she claims undermines this circuit's longstanding practice of looking to federal common law to determine if the named beneficiary of an ERISA-governed benefits plan has effected a valid waiver of her rights. All parties appear to agree that this issue—whether, after *Egelhoff*, courts can rely on federal common law to determine if the beneficiary of an ERISA plan has waived her rights—is the sole issue before the court. Likewise, all parties appear to agree that this case should be disposed of

on summary judgment because the facts of the case are not in dispute.

Finch's claim that the magistrate judge improperly applied federal common law when deciding this case fails. In this circuit, we have applied federal common law to determine whether the named beneficiary of a plan governed by ERISA has waived her rights under the plan. *See Manning v. Hayes*, 212 F.3d 866 (5th Cir. 2000), *cert. denied*, 532 U.S. 941, 149 L. Ed. 2d 345 (2001). For the reasons set forth below, *Egelhoff* does not undermine this approach.

A. Fifth Circuit Precedent

In a series of cases, this court has held that when ERISA preempts state law, we apply federal common law to determine whether a beneficiary like Finch has effected a waiver. *See Manning*, 212 F.3d at 866; *Clift*, 210 F.3d at 268; *Brandon v. Travelers Ins. Co.*, 18 F.3d 1321 (5th Cir. 1994). Following this line of precedent, a waiver is valid if it is "explicit, voluntary and made in good faith." *Manning*, 212 F.3d at 871; *see also Clift*, 210 F.3d at 269-71; *Brandon*, 18 F.3d at 1325-27. In *Brandon*, a case quite similar to the present one, we held that a decedent's ex-wife, who was the named beneficiary of a life insurance plan governed by ERISA, was not entitled to the proceeds of the plan because she waived them in a settlement agreement. Specifically, in *Brandon*, this court found that ERISA preempted a Texas state law that would have automatically nullified upon divorce the decedent's previous designation of his then-wife as the plan's beneficiary. *Brandon*, 18 F.3d at 1325. After making this finding, this court then sought to "ascertain the law that is applicable to the controversy" by looking to the "statutory language or, finding no answer there, to federal common law . . . ." *Id.* (internal quotation marks omitted). Similarly, in *Manning*, this circuit followed the same approach. *See Manning*, 212 F.3d at 870. Specifically, it asked "whether, having established that the state law is

preempted, the federal law governing the resolution of [the case] may be reasonably drawn from the text of ERISA itself, or must instead be developed as a matter of federal common law." *Id.* Thus, in a series of cases, this court has consistently applied federal common law to determine the proper beneficiary of plans governed by ERISA.

Outside of this circuit, the majority of courts that have considered whether federal common law governs disputes between an ex-spouse who is an ERISA plan's designated beneficiary and other claimants to the plan's proceeds have reached the same conclusion that this court has reached. Specifically, most courts have: (1) concluded that ERISA does not preempt a waiver by a named beneficiary of her interest in the plan's proceeds; and (2) relied on federal common law principles in order to determine if the named beneficiary effected a valid waiver of her rights under the plan. *See Hill v. AT&T Corp.*, 125 F.3d 646, 648 (8th Cir. 1997); *Estate of Altobelli v. Int'l Bus. Machs. Corp.*, 77 F.3d 78, 81-82 (4th Cir. 1996); *Mohamed v. Kerr*, 53 F.3d 911, 914 (8th Cir. 1995), *cert. denied*, 516 U.S. 868, 133 L. Ed. 2d 123 (1995); *Fox Valley & Vicinity Constr. Workers Pension Fund v. Brown*, 897 F.2d 275, 280 (7th Cir. 1990) (en banc), *cert. denied*, 498 U.S. 820, 112 L. Ed. 2d 41 (1990); *Metro. Life Ins. Co. v. Flinkstrom*, 303 F. Supp. 2d 34, 39-43 (D. Mass. 2004); *John Hancock Mut. Life Ins. Co. v. Timbo*, 67 F. Supp. 2d 413, 419-20 (D.N.J. 1999). Only the Sixth Circuit has clearly gone the other way, finding that the text of ERISA forecloses employing federal common law to determine a plan's beneficiary. *Metro. Life Ins. Co. v. Pressley*, 82 F.3d 126, 129- 30 (6th Cir. 1996) (concluding that "the Sixth Circuit takes a different view [from the majority of other circuits] and holds that ERISA itself supplies the rule of law."). Hence, the majority of circuits that have considered the issue presently before this court have concluded, as we have done in the past, that it is appropriate to apply federal common law to determine if the named beneficiary of an ERISA plan has waived her rights.

B. Finch's Arguments

In her appellate brief, Finch argues that *Egelhoff* effectively overrules this circuit's decisions looking to federal common law to identify the beneficiary of an ERISA plan. Instead, according to Finch, *Egelhoff* requires courts to look solely to the text of ERISA and to the plan documents—not to federal common law—in order to determine the proper beneficiary of a life insurance policy governed by ERISA. In support of this claim, Finch cites a passage in *Egelhoff* in which the Supreme Court stated that "ERISA's preemption section, 29 U.S.C. § 1144(a), states that ERISA shall supersede any and all State laws insofar as they may now or hereafter relate to any employee benefit plan covered by ERISA." *Egelhoff*, 532 U.S. at 146 (internal quotation marks omitted). Finch also notes that the Supreme Court held that a "fiduciary shall administer the plan 'in accordance with the documents and instruments governing the plan,' making payments to a 'beneficiary' who is 'designated by a participant, or by the terms of [the] plan.'" *Id.* at 147 (alteration in original) (internal citation omitted). According to Finch, the magistrate judge's ruling in the present case, which relies on federal common law rather than the language of the plan documents, effectively abrogates ERISA as it relates to life insurance plans. Thus, Finch argues that the magistrate judge erred when she looked to federal common law in order to identify the plan's beneficiaries.

Second, Finch argues that the magistrate judge erred because applying federal common law to determine a plan's beneficiary would undermine the goal of uniformity in the application of ERISA. In support of this claim, Finch notes that in *Egelhoff*, the Supreme Court held that ERISA preempted a Washington statute providing for the automatic revocation of the designation of a former spouse as a plan's beneficiary upon a divorce. According to the Court,

preemption was necessary in order to prevent "requiring ERISA administrators to master the relevant laws of 50 States . . . ." *Egelhoff*, 532 U.S. at 149. The Court further noted that "uniformity is impossible, however, if plans are subject to different legal obligations in different States." *Id.* at 148. While *Egelhoff* pertained to a state statute, Finch contends that the uniformity it refers to would be defeated if plans are subject to different legal obligations in different federal districts or circuits. Accordingly, Finch claims that the magistrate judge erred when she relied on federal common law to decide this case.

C. The Effect Of *Egelhoff*

Contrary to Finch's assertions, *Egelhoff* does not undermine this court's practice of applying federal common law to determine if an ERISA plan's named beneficiary has effected a valid waiver of her rights under the plan. First, the holding of *Egelhoff* is inapplicable to the present case because *Egelhoff* does not address the application of federal common law to ERISA plans. Rather, *Egelhoff* only addresses whether ERISA preempts a state statute that automatically revokes the designation of a spouse as the beneficiary of a life insurance policy upon divorce. *Egelhoff*, 532 U.S. at 141. The Supreme Court's holding in *Egelhoff*—that ERISA does preempt a state statute that automatically revokes an ex-spouse as a plan's beneficiary after a divorce—is unremarkable and is in line with a number of decisions from this court holding that ERISA preempts state laws of this sort. *See, e.g.*, *Manning*, 212 F.3d at 870 (holding that 29 U.S.C. § 1144(a) preempts all state laws insofar as they relate to an ERISA plan). Finch's attempt to extend the holding of *Egelhoff* beyond its facts so as to undermine the magistrate judge's reliance on federal common law in the present case is unsupported by any case law and flatly contradicts this court's prior precedent. *See, e.g.*, *Manning*, 212 F.3d at 871; *Clift*, 210 F.3d at 269-71;

Brandon, 18 F.3d at 1325-26. This court sees no reason to extend the scope of *Egelhoff* to find that it preempts federal common law in addition to state statutes. Accordingly, the magistrate judge properly relied on federal common law when determining that Finch had waived her rights under the life insurance plan.

Second, the goal of uniformity that the Supreme Court discusses in *Egelhoff* is not undermined when courts rely on the federal common law of waiver to determine if a beneficiary has waived her rights under an ERISA plan. To begin with, *Egelhoff* only discusses the problems created when plan administrators must look to state law in order to identify a plan's beneficiary. *Egelhoff*, 532 U.S. at 148 (stating that uniformity would be undermined if plans are subject to different legal obligations in different states). *Egelhoff* never holds that uniformity would be undermined if courts relied on federal common law. In fact, plan administrators must at times look to federal common law (*e.g.*, to determine how a certain provision of ERISA has been interpreted in a particular circuit). Thus, reliance on federal common law cannot alone undermine the uniformity that the Supreme Court discusses in *Egelhoff*. Moreover, applying federal common law to determine if an ERISA plan's beneficiary waived her rights can be seen as promoting, rather than undermining, national uniformity. *See Fox Valley*, 897 F.2d at 281-82 ("As we have noted, federal courts are charged with creating federal common law rules to govern ERISA, and the creation of such federal rules will provide the needed uniformity."). Thus, Finch's argument that reliance on federal common law would undermine national uniformity fails.

Third, the Supreme Court in *Egelhoff* strongly suggested that courts can at times rely on common law principles when determining the identity of the beneficiary of an ERISA plan. *Egelhoff*, 532 U.S. at 152. Referring to state "slayer" statutes, the Supreme Court stated:

> In the ERISA context, these "slayer" statutes could revoke the beneficiary status of someone who murdered a plan participant. Those statutes are not before us, so we do not decide the issue. We note, however, that the principle underlying the statutes—which have been adopted by nearly every State—is well established in the law and has a long historical pedigree predating ERISA. And because the statutes are more or less uniform nationwide, their interference with the aims of ERISA is at least debatable.

Id. (internal citations omitted). Accordingly, the Supreme Court has, at times, noted that it might be proper for lower courts to look to common-law principles when interpreting provisions of ERISA. *See id.*; *Varity Corp. v. Howe*, 516 U.S. 489, 498, 502, 134 L. Ed. 2d 130, 116 S. Ct. 1065 (1996) (using the common law as a starting point for interpreting ERISA's fiduciary duties).

Finally, several post-*Egelhoff* decisions from other circuits reinforce our conclusion that *Egelhoff* does not undermine this court's application of federal common law to determine if an ERISA plan's named beneficiary has effected a valid waiver. For instance, in *Melton v. Melton*, 324 F.3d 941 (7th Cir. 2003), the Seventh Circuit relied on federal common law to determine if a valid waiver had been effected by a plan's beneficiary. The Seventh Circuit concluded that "even where ERISA preempts state law with respect to determining beneficiary status under an ERISA-regulated benefits plan, ERISA does not preempt an explicit waiver of interest by a nonparticipant beneficiary of such plan." *Id.* at 945. Similarly, in *Metropolitan Life Insurance Co. v. Johnson*, 297 F.3d 558, 567 (7th Cir. 2002), the Seventh Circuit stated that "the Supreme Court has recognized, in situations where ERISA preempts state law but is silent on a topic, that courts would have to develop a body of federal common law . . . ." A number of federal district courts and state courts have reached similar conclusions. *See, e.g.*, *Flinkstrom*, 303 F. Supp. 2d at 39-43; *Metro. Life Ins. Co. v. Palmer*, 238 F. Supp. 2d 821, 824-26 (E.D. Tex. 2002); *Keen v. Weaver*, 121

S.W.3d 721, 725, 46 Tex. Sup. Ct. J. 804 (Tex. 2003) ("We do not believe that *Egelhoff* precludes the application of federal common law to this dispute."); *Silber v. Silber*, 99 N.Y.2d 395, 404, 786 N.E.2d 1263, 757 N.Y.S.2d 227 (N.Y. 2003) ("The weight of federal authority now favors the view that a named beneficiary may waive its rights as a designated beneficiary through a waiver that meets common-law requirements.").

Thus, for all of the foregoing reasons, *Egelhoff* does not undermine this court's longstanding approach of relying on federal common law to determine if an ERISA plan's beneficiary has effected a common law waiver. Accordingly, the district court did not err when, following Fifth Circuit precedent, it relied on federal common law to grant summary judgment in favor of Eddie Lee Galaway because Finch had effected a valid waiver of her rights under the life insurance plan.

IV. CONCLUSION

For the foregoing reasons, this court AFFIRMS the judgment of the district court.

[2004 U.S. Dist. LEXIS 979]

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS, DALLAS DIVISION

THE GUARDIAN LIFE INSURANCE COMPANY OF AMERICA, Plaintiff,

v.

KIMBERLYE FINCH and EDDIE LEE GALAWAY, AS ADMINISTRATOR OF THE ESTATE OF BRADFORD WAYNE GALAWAY, Defendants.

Civil Action No. 3:03-CV-1225-BH

January 15, 2004, Decided
January 16, 2004, Filed

MEMORANDUM OPINION AND ORDER

Before the Court are:

(1) Eddie Lee Galaway's *Motion for Summary Judgment*, filed September 30, 2003;

(2) *Kimberlye Finch's Response to Eddie Lee Galaway's Motion for Summary Judgment*, filed October 21, 2003;

(3) *Kimberlye Finch's Motion for Summary Judgment*, filed September 30, 2003;

(4) *Eddie Lee Galaway, as Administrator of the Estate of Bradford Wayne Galaway 's Response to Kimberlye Finch's Motion for Summary Judgment*, filed October 22, 2003; and

(5) *Kimberlye Finch's Reply to Eddie Lee Galaway's Response to Finch's Motion for Summary Judgment*, filed November 5, 2003.

Having reviewed the pertinent pleadings and the law applicable to the issues raised, the Court is of the opinion that Eddie Lee Galaway's *Motion for Summary Judgment* should be GRANTED and *Kimberlye Finch's Motion for Summary Judgment* should be DENIED.

I. BACKGROUND

Bradford Wayne Galaway ("Galaway") and Kimberlye Finch ("Finch") were married on September 22, 2001. On or about February 1, 2002, the Guardian Life Insurance Company of America ("Guardian") issued a group insurance policy to Galaway's employer, which provided Galaway with basic life insurance and accidental death benefits. The policy constitutes an insured employee welfare benefit plan governed by and subject to the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1002. Galaway named Finch as the beneficiary of the policy. Galaway and Finch were divorced on June 20, 2002. The *Agreed Final Decree of Divorce*, signed by both Galaway and Finch and their respective attorneys, awarded Galaway as his separate property, all insurance policies insuring his life. On November 8, 2002, Galaway was killed in an airplane accident. He died intestate and had not changed the named beneficiary on the life insurance policy prior to his death.

Finch claims that as the named beneficiary under the policy, she is entitled to receive the benefits payable under the policy. Eddie Lee Galaway, the duly appointed Administrator of the Estate of Bradford Wayne Galaway ("Estate"), asserts that Finch was divested of any rights to the policy benefits through the divorce decree and that the benefits should be paid to the Estate. On May 30, 2003, Guardian filed the instant interpleader action, seeking to require Finch and the Estate to interplead and settle their respective rights to the policy benefits. Guardian was discharged from all liability with respect to the benefits on

September 16, 2003. Both Finch and the Estate have now filed motions for summary judgment on the issue of entitlement to the benefits, stating that the only issue to be resolved is the law to be applied to the case.

II. STANDARD OF REVIEW

Under Rule 56(c) of the Federal Rules of Civil Procedure, summary judgment is appropriate when the pleadings and record evidence show that no genuine issue of material fact exists and that, as a matter of law, the movant is entitled to judgment. *Little v. Liquid Air Corp.*, 37 F.3d 1069, 1075 (5th Cir. 1994). A material fact is one that "might affect the outcome of the suit under the governing law" and a "dispute about a material fact is 'genuine' ... if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248, 91 L. Ed. 2d 202, 106 S. Ct. 2505 (1986). In a motion for summary judgment, the burden is on the movant to prove that no genuine issue of material fact exists, and if the movant fails to meet his burden, the motion must be denied, regardless of the nonmovant's response. Little, 37 F.3d at 1075. If, however, the movant does meet his burden, then the nonmovant must go beyond the pleadings and "designate specific facts showing that there is a genuine issue for trial." *Id.* "If the non-movant fails to present facts sufficient to support an essential element of his claim, summary judgment is appropriate." *Vela v. City of Houston*, 276 F.3d 659, 666 (5th Cir. 2001). The record before the court must be considered in the light most favorable to the nonmovant. *Harrison v. Byrd*, 765 F.2d 501, 504 (5th Cir. 1985).

III. ANALYSIS

Both parties agree that no genuine issue of material fact exists in this case and that this case may be decided as a

matter of law. The parties also agree that the policy at issue in this case is governed by ERISA. The Estate argues that ERISA does not prevent a beneficiary from waiving rights to insurance benefits, and that Finch waived her rights to the policy benefits in the divorce decree. Finch asserts that ERISA does not provide for waiver of beneficiary rights and dictates that benefits be paid in accordance with plan documents.

ERISA broadly preempts "any and all State laws insofar as they may now or hereafter relate to any employee benefit plan." 29 U.S.C. § 1144(a). The Fifth Circuit has held that the Texas beneficiary redesignation statute, Tex. Fam. Code § 9.301, relates to employee benefit plans and is preempted by ERISA. *Manning v. Hayes*, 212 F.3d 866, 870 (5th Cir. 2000). In *Manning*, the Fifth Circuit reaffirmed the rule set forth in *Clift v. Clift*, 210 F.3d 268 (5th Cir. 2000) and *Brandon v. Travelers Ins. Co.*, 18 F.3d 1321 (5th Cir. 1994), that federal common law, rather than the text of ERISA itself, governs resolution of cases in which a former spouse who is still the designated beneficiary of a policy governed by ERISA is alleged to have waived her rights to the policy benefits. *Manning*, 212 F.3d at 872. The court decided not to follow the minority view, which employs the principles of conflict preemption, noting that "the law of family relations, which includes an individual's right to expressly apportion property upon divorce, has traditionally been a fairly sacrosanct enclave of state law." *Id.* at 872. The court determined that in applying federal common law to cases such as the case at bar, the courts should borrow from state law when determining the federal common law that should control. *Id.* According to the Fifth Circuit, the rule of federal common law applicable to disputes concerning waiver by a designated beneficiary of ERISA life insurance proceeds is that "a named ERISA beneficiary may waive his or her entitlement to the proceeds of an ERISA plan providing life insurance benefits, provided that the waiver is explicit, voluntary, and made in good faith." *Id.* at 874.

Finch asserts that the Supreme Court's decision in *Egelhoff v. Egelhoff*, 532 U.S. 141, 149 L. Ed. 2d 264, 121 S. Ct. 1322 (2001), "decisively overruled both *Clift* and *Brandon*." (Finch's Br. in Opp. to Galaway's M. for Summ. J. at 2.) In *Egelhoff*, the Supreme Court held that ERISA preempted a Washington state statute providing for automatic revocation of the designation of a former spouse upon divorce. *Egelhoff*, 532 U.S. at 143. The Court noted that preemption of such statutes is necessary to prevent "requiring ERISA administrators to master the relevant laws of 50 states." *Id.* at 149. However, the Court limited its holding to the finding that the Washington statute was expressly preempted by ERISA and declined to address whether the principles of conflict preemption applied. *Id.* at 146. The Court also failed to address the circuit split regarding whether federal common law or ERISA itself governs in cases of preemption and did not overrule the Fifth Circuit's common law approach as set out in *Clift* and *Brandon*.

Although the Supreme Court did not determine whether conflict preemption was applicable upon a determination of ERISA preemption, its decision of *Egelhoff* does cast doubt on whether the Fifth Circuit's federal common law approach, as set out in *Manning*, *Clift*, and *Brandon*, should continue to be applied in such cases. This issue was expressly considered in *Metropolitan Life Ins. Co. v. Palmer*, 238 F. Supp. 2d 821 (E.D. Tex. 2002), wherein the court conducted a detailed analysis of the common law approach to ERISA preemption and the potential effects of *Egelhoff* on that approach. There, the court noted that while *Egelhoff* involved the issue of ERISA preemption of a state statute, *Brandon* involved a divorce decree that could constitute a waiver under federal common law. *Metropolitan Life Ins. Co.*, 238 F. Supp. 2d at 825-26. The court cited *Egelhoff* for the proposition that one of the purposes of preemption was to prevent requiring ERISA administrators to master the relevant laws of 50

States. *Id.* at 826 (citing *Egelhoff*, 532 U.S. at 149). The court noted that

> application of a divorce decree presents much less danger. A divorce decree is entitled to full faith and credit. As such, the choice-of-law fears noted in *Egelhoff* do not exist. Absent a clear showing that the rule set forth in *Brandon* has been discredited by the Supreme Court, this district court is not at liberty to depart from the established law of the Fifth Circuit.

Metropolitan Life Ins. Co., 238 F. Supp. 2d at 826 (internal citations omitted). In light of the fact that the Supreme Court declined to determine whether the principles of conflict preemption apply and did not overrule the federal common law approach set forth by the Fifth Circuit in *Manning*, *Clift* and *Brandon*, this Court will also follow established Fifth Circuit precedent.

Applying the federal common law of waiver in this case, it is clear that Finch waived her rights to the policy benefits at issue. The Fifth Circuit has held that any waiver of ERISA benefits must be explicit, voluntary, and made in good faith. *Manning*, 212 F.3d at 874. The Agreed Final Decree of Divorce stated that Galaway was awarded "as his sole and separaty property, and [Finch] is divested of all right, title, interest, and claim in and to ... all policies of life insurance (including cash values) insuring [Galaway's] life. (Appx. to Galaway's M. for Summ. J. at 18, 23.) The divorce decree was signed by Finch and her attorney. *Id.* at 23. The waiver of Finch's rights to the policy is explicit, and Finch does not allege that there is any issue relating to whether the parties acted voluntarily or in good faith. Because the divorce decree include language explicitly divesting Finch of an interest in any and all policies insuring Galaway's life and the waiver was voluntary and in good faith, the Court finds that Finch waived her beneficiary status in the subject policy.

IV. CONCLUSION

For the foregoing reasons, the Court concludes that no genuine issue of material fact exists and that summary judgment is appropriate in this case. Accordingly, Eddie Lee Galaway's *Motion for Summary Judgment* is hereby GRANTED and *Kimberlye Finch's Motion for Summary Judgment* is hereby DENIED.

SO ORDERED on this 15th day of January, 2004.

/s/
IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE

FINAL JUDGMENT

This Judgment is issued pursuant to the Court's Memorandum Opinion and Order, dated January 15, 2004.

It is therefore ORDERED, ADJUDGED, and DECREED that Eddie Lee Galaway's Motion for Summary Judgment is GRANTED.

It is further ORDERED, ADJUDGED, and DECREED that all funds interpled by the Guardian Life Insurance Company of America be delivered to Eddie Lee Galaway, as Administrator of the Estate of Bradford Wayne Galaway, and that Kimberlye Finch take nothing from this suit.

It is further ORDERED, ADJUDGED, and DECREED that the clerk shall transmit a true copy of this judgment to the parties.

SO ORDERED, this 15th day of January, 2004.

/s/
IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE